

Message

From: Mutter, Andrew [mutter.andrew@epa.gov]
Sent: 12/20/2018 9:46:23 PM
To: Benevento, Douglas [benevento.douglas@epa.gov]
Subject: FW: Daily Clips: 12/20/2018

From: Sauerhage, Maggie
Sent: Thursday, December 20, 2018 2:46:20 PM (UTC-07:00) Mountain Time (US & Canada)
To: AO OPA OMR CLIPS
Subject: Daily Clips: 12/20/2018

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Greenwire: EPA seeks advisers

<https://www.eenews.net/greenwire/2018/12/20/stories/1060110257>

By Sean Reilly, E&E News reporter

12/20/2018

EPA is looking for candidates to serve on its Clean Air Act Advisory Committee, which furnishes outside feedback on a range of issues related to implementation of the landmark environmental law.

The agency is seeking nominees from academia, industry, environmental groups, state and local governments, and other organizations, according to a notice set for publication in tomorrow's Federal Register. Acting EPA Administrator Andrew Wheeler will make the appointments, with vacancies expected to be filled by next May.

The committee currently has about 40 members who serve two-year terms. The notice does not say how many seats are anticipated to open up. EPA will evaluate nominees on a variety of factors, including familiarity with air quality policy issues, experience as an elected or appointed official, and a background that would contribute to "a diversity of perspectives" on the committee, the notice says. It does not set a deadline for nominations.

The panel typically meets publicly twice a year, with the opportunity to hear directly from top staff in EPA's Office of Air and Radiation. Among other activities, the committee will provide advice and recommendations on the potential health, environmental and economic effects of Clean Air Act programs on the public; it will also review the policy and technical contents of proposed EPA regulations "to help effectively incorporate appropriate outside advice and information," the notice indicates.

Greenwire: Exxon backs 'key aspects' of Obama-era methane rule

<https://www.eenews.net/greenwire/2018/12/20/stories/1060110283>

By Niina Heikkinen, E&E News reporter

12/20/2018

Exxon Mobil Corp. is calling for keeping core components of the Obama-era rule to control methane emissions from the oil and gas industry.

The oil and natural gas company urged EPA to continue to pursue cost-effective regulations as the agency seeks to revise the Obama administration's New Source Performance Standards for methane emissions from new and modified sources in the oil and gas industry.

"We believe the correct mix of policies and reasonable regulations help reduce emissions, further supporting the benefits of natural gas in the energy mix," Exxon wrote in public comments filed this week on the proposed rule change.

Exxon supported maintaining "key aspects" of the Obama-era rule, including "leak detection and repair programs, enhanced pneumatic device standards, control requirements on regulated storage tanks and reduced emission completions on new wells."

Exxon also supported comments from the American Petroleum Institute, which called for the agency to continue to find more cost-effective ways to control methane emissions.

The public comments come after investors sent letters to major oil companies, including Exxon, asking them to inform EPA that controlling methane will benefit U.S. companies in light of climate regulations from foreign nations (E&E News PM, Dec. 5).

The shareholder advocacy group, As You Sow, which participated in the letter campaign and has pushed Exxon for tighter methane controls, credited ongoing pressure on the company from investors for pushing Exxon to take firmer actions to control the potent greenhouse gas. Measured over a 100-year time frame, methane has over 25 times the heat-trapping capability of carbon dioxide.

"As investors, we are always concerned that companies are not moving fast enough. In instances like this, we do want to acknowledge where there is progress," said Lila Holzman, As You Sow's energy program manager.

Holzman noted that of company shareholders reached, Exxon has come out the strongest in support of maintaining aspects of the Obama-era methane rule.

She said that overall the group was pleased that Exxon had agreed that key components of the Obama-era rule should remain in place, though they were uncomfortable with Exxon's support for API's comments.

Holzman suggested Exxon's stance could influence other oil companies because the company had found ways to implement methane controls that are cost-effective.

"It has an interest in leveling the playing field and having other [companies] held to the same standards," she said of Exxon.

The company has set a target of cutting its methane emissions by 15 percent by 2020. In 2017, Exxon agreed to methane guiding principles with seven other global oil and gas companies. The principles focus on continuously reducing emissions and working to improve transparency and the accuracy of its data.

Exxon is also supporting technology development, which includes joining with other companies to form the Collaboratory to Advance Methane Science (CAMS), along with other initiatives.

"We have gained considerable experience from our efforts and would welcome the opportunity to discuss these comments with EPA and further share our views on the importance of reasonable regulations to manage methane emissions for both new and existing sources prior to the final rule," Exxon's comments read.

Greenwire: FOIA suit targets records on car, truck rules

<https://www.eenews.net/greenwire/2018/12/20/stories/1060110249>

By Maxine Joselow, E&E News reporter

12/20/2018

The Environmental Defense Fund is suing the Department of Transportation for records related to "possible corruption" behind its rollbacks of Obama-era rules.

The 49-page complaint, filed yesterday in the U.S. District Court for the District of Columbia, accuses DOT of violating the Freedom of Information Act by failing to release documents about its revamp of clean car and clean truck standards.

The suit comes after EDF submitted three FOIA requests seeking the records. The group says the department failed to respond in a timely manner.

"EDF is going to court to enforce the American people's right to know what's driving the Trump administration's attacks on our nation's clean car and freight truck standards," EDF attorney Ben Levitan said in a statement.

"We will vigorously pursue this lawsuit so that the public can see any corruption behind the Trump administration's reckless attacks on vital measures that protect public health and our environment," Levitan added.

The first FOIA request was filed in August. It sought communications about the clean car rules among Deputy Secretary of Transportation Jeffrey Rosen, National Highway Traffic Safety Administration Deputy Administrator Heidi King and outside parties.

The second request, filed in October, sought additional communications about the clean car rules from Transportation Secretary Elaine Chao, as well as the private calendars of top DOT officials.

The third request, also filed in October, aimed to shed light on internal deliberations about the clean truck rules.

Along with EPA, DOT is looking to roll back the clean car standards and revoke California's ability to set more stringent vehicle emissions benchmarks than the federal government.

Greenwire: Marathon hearing set for climate rule

<https://www.eenews.net/greenwire/2018/12/20/stories/1060110251>

By Niina Heikkinen, E&E News reporter

12/20/2018

EPA has announced it will be holding a lone public hearing on its proposed rule on greenhouse gas emissions from new and modified power plants early next month.

Members of the public will be able to voice their opinions in person to officials Jan. 8 at the agency's headquarters in Washington, D.C.

The hearing is scheduled to run all day — from 8 a.m. until 7 p.m. — according to an announcement in the Federal Register.

The proposed New Source Performance Standards for greenhouse gas emissions from new power plants would replace a 2015 rule put forward by the Obama administration that is currently in effect.

The new proposal axes the previous rule's assessment that carbon capture and storage technology represents the best system of emissions reductions.

Instead, the agency is focused on emissions reductions through increased power plant efficiency. The proposed rule would also raise the emissions rate that would be permitted for power plants (Climatewire, Dec. 7).

In addition to seeking comment on the rule change itself, EPA is looking for feedback to possible changes on requirements to draft additional endangerment findings for greenhouse gases.

Specifically, the agency is asking whether it should draft a new endangerment finding for each new pollutant for an already listed source category (Climatewire, Dec. 14).

Phys. Org: New study first to predict which oil and gas wells are leaking methane

<https://phys.org/news/2018-12-oil-gas-wells-leaking-methane.html>

University of Vermont

12/20/2018

Each year brings new research showing that oil and natural gas wells leak significant amounts of the potent greenhouse gas methane.

A new study just published in the journal *Environmental Geosciences* is the first to offer a profile of which wells are the most likely culprits.

The research, conducted by George Pinder of the University of Vermont and James Montague, a former doctoral student at the university, is based on a study of 38,391 natural gas and oil wells in Alberta, Canada. Companies in that province are required to test wells at the time they begin operating, to determine if they have failed and are leaking methane, and to keep careful records of each well's construction characteristics.

The study used a machine learning algorithm to correlate wells that leaked and those that didn't with a set of 16 characteristics.

The analysis yielded a cluster of traits that was predictive of whether a well would fail and leak, highlighted by three:

- wells that deviated from a vertical drill line;
- older wells, drilled before modern drilling practices were put in place; and
- wells with greater circumferences, whose larger casings required larger volumes of cement that increased the likelihood of voids.

For a subset of 4,024 wells for which the algorithm had access to more complete information, including the fluid properties of the oil or natural gas being mined, the researchers were able to identify leaking wells with 87 percent accuracy.

For a larger sample of 28,534 wells, where the fluid property was not known and taken into account, 62 percent of leaking wells were identified accurately.

"The big picture," Pinder said of the study's findings, "is that we can now have tool that could help us much more efficiently identify leaking wells. Given that methane is such a significant contributor to global warming, this is powerful information that should be put to use."

"Provincial and state regulatory agencies never have enough inspectors or financial resources to locate, let alone repair, leaking wells," said A. R. Ingraffea, the Dwight C. Baum Professor of Engineering Emeritus at Cornell and an expert in oil and natural gas well design and construction, who was not involved in the study. "The methodology created by this research will be invaluable to those agencies because they can now focus inspections on wells most likely to be leaking now or to leak in the future."

The findings also shed light on how new wells should be designed and constructed to minimize the chance that they will leak, Pinder said.

About 12.5 percent of the wells in the Alberta database were leaking at the time they were to become operational. More research is needed to look at methane leaks over time as wells age, said Montague, the study's lead author.

"The failure rate is likely to underestimate the number of wells that will eventually fail and leak, given the clear possibility that they will degrade with age," he said.

Research published in June in *Science* estimated that natural gas wells are leaking 13 million metric tons of methane each year, 60 percent higher than EPA estimates, offsetting much of the climate benefits of burning natural gas instead of coal.

Methane is a highly potent greenhouse gas, with more than 90 times the climate warming impact of carbon dioxide over the first 20 years after it is released.

Under the Trump administration, the Environmental Protection Agency has proposed reducing the monitoring of oil and natural gas wells for methane leaks and has created a variety of exemptions for regulation.

Read more at: <https://phys.org/news/2018-12-oil-gas-wells-leaking-methane.html#jCp>

Reno Gazette Journal: Don't delay wood smoke regulations, say Nevada health officials

<https://www.rgj.com/story/news/2018/12/20/dont-delay-wood-smoke-regulations-say-nevada-health-officials/2369362002/>

By Benjamin Spillman

12/20/2018

Wood stove manufacturers are asking Congress and the Trump Administration to delay implementation of wood smoke pollution control requirements.

Air quality and health experts say those delays would result in thousands of additional tons of pollutants annually across the country.

Those pollutants, which include small particulate matter, can cause or exacerbate heart and lung problems in communities.

The effects of wood smoke pollution can be particularly acute in mountainous Western communities such as Reno or Salt Lake City where cold air traps pollutants near the ground.

"It is all unnecessary, there is no reason to be doing this," said Charlene Albee, director of the air quality management division for the Washoe County Health District. Albee said companies have already made stoves that can comply with the stricter regulations.

She also said that prolonging the availability of older, higher-pollution stoves could prompt communities to increase burn bans in order to maintain compliance with clean air regulations.

"It is a benefit to a really small piece of industry at a risk to public health around the country," Albee said.

The regulations were approved in 2015 and scheduled to go into effect in 2020, giving manufacturers five years to prepare.

Proponents of delaying regulation are led by the Hearth, Patio and Barbecue Assoc., the lobbying group for companies that make and sell wood stoves.

"We would like to be in business for another 150 years, but we are worried," Paul Williams, a member of the group, said during testimony to Congress on the issue.

Advocates for delay are working on two tracks, in Congress and through the administration. In Congress, they've advocated for legislation to delay implementation of pollution control requirements from 2020 to 2023. They also want Congress to authorize retailers to continue selling older stoves already in stock even after the requirements kick in.

"All we are asking in this bill is a three-year extension," Williams said.

The House of Representatives has already approved the legislation, but it still needs approval from the Senate. If it's not approved by Dec. 31, the proposal would die and is unlikely to be resurrected in the next session of Congress.

Kevin Dick of the Washoe County Health District sent a letter to Nevada Sens. Catherine Cortez Masto and Dean Heller urging them to oppose the legislation.

“Wood smoke contains a mixture of dangerous substances that penetrate deep into the lungs,” Dick wrote. “The adverse health impacts of wood smoke can affect large areas as well as local neighborhoods, especially in valleys where the wood smoke accumulates like the Truckee Meadows.”

While Rep. Mark Amodei, R-Nev., voted in favor of the House version of the legislation, which was folded into a larger bill, Nevada’s U.S. senators haven’t said if they would support or oppose the Senate version.

“(Masto) continues to engage with stakeholders in Washoe County on the effects of winter inversion and the resultant exacerbation wood stoves contribute to air pollution in Washoe,” said Ryan King, communications director for Masto, D-Nev.

A spokesperson for Heller, R-Nev., did not respond to requests for comment.

Even if the legislation dies in Congress, there’s a chance the Trump administration could act to delay or weaken the regulations.

The Environmental Protection Agency has already issued official notices signaling the agency is considering changes similar to those proposed in the legislation.

In a statement announcing the effort to redo the rules, acting EPA administrator Andrew Wheeler, a former coal industry lobbyist, said delaying allowing manufacturers to continue selling older stoves and a reassessment of the testing methods for the stricter standards would be good for consumers, even though the EPA’s own analysis shows the public health costs of delaying the regulations would be in the hundreds of millions of dollars while the benefits to manufacturers would be about \$10 million in sales.

“Extending the sale of new, Step 1-compliant wood heaters will provide manufacturers and retailers with much-needed certainty and will incentivize more Americans to purchase newer, cleaner heaters, which supports rural economies and improves air quality,” said Wheeler. “We are also taking comments on the testing methods underlying the Step 2 limit to ensure the standards are based on real-world conditions and do not deprive many rural Americans of affordable access to their primary source of heat.”

If the EPA moves forward and delays or weakens the regulations, Albee said Washoe County would likely stick to the stricter standard locally.

That would mean people in Washoe County wouldn’t be able to purchase the older wood stoves, even if manufacturers and retailers are selling them.

“We are not going to roll our rules back,” Albee said. “if they want to sell them in Washoe County they will have to be compliant with the rule as it was originally adopted.”

E&E News: Interior-EPA bill in limbo with Dems poised to control House

<https://www.eenews.net/eedaily/2018/12/20/stories/1060110209>

By Geof Koss

12/20/2018

Congress is on track to approve a continuing resolution to keep a list of agencies — including EPA and the Interior Department — operating past tomorrow.

The Senate approved the CR by voice vote late last night after negotiations over whether to attach a massive public lands package. That move failed (see related story).

The House Rules Committee then met around 11 p.m. to rush the spending measure to the floor. It will likely pass today.

The decision to go with a CR until Feb. 8 and punt on the remaining seven spending bills has appropriators wondering whether they can salvage months of work when the House flips to Democratic control in January.

Senate Appropriations Chairman Richard Shelby (R-Ala.) said it was unclear whether House Democrats would jettison the bills that have been agreed to.

"I don't know if they'll start all over, but I'm sure the political equation changes it a little bit," he told reporters.

Sen. Patrick Leahy (D-Vt.), the ranking member on Appropriations, said House Democrats "will make certain changes, we know that." But he called the existing body of appropriations work "a good template to start with."

Senate Interior and Environment Appropriations Subcommittee Chairwoman Lisa Murkowski (R-Alaska), who has labored for months to get the Interior-Environment bill signed into law, lamented that that measure and the other five spending bills stalled amid the president's insistence on border wall funding.

"The fact that that was basically held as a political hostage is infuriating," Murkowski told E&E News.

Murkowski said she and other top appropriators who are focused on Interior and EPA have worked well together but noted that incoming House Interior and Environment Appropriations Subcommittee Chairwoman Betsy McCollum (D-Minn.) will hold new leverage to advance her own priorities next month.

"It doesn't necessarily mean that it is no longer relevant, but it certainly gives an opportunity for some adds and some deletions and some rearranging of the furniture here that may or may not be easy," said Murkowski.

Besides the likelihood of new negotiations on fiscal 2019 bills that were essentially finished, Murkowski noted that appropriators will be more than four months behind on fiscal 2020 spending bills come early February.

"How are we going to finish our appropriations bills by the end of September?" she asked. "We set ourselves up to fail every single time, and that's why this is such a missed opportunity and why I feel like we just had the football pulled out from underneath us when we are so close to finishing it off."

Rep. Tom Cole (R-Okla.), a senior appropriator, said he doubted Democrats would rewrite the unpassed spending bills, noting they would still have to pass a Republican Senate.

"If they want to rewrite 'em, I think they are going to waste a lot of time and get in a lot of fights," he said.

Rep. Rosa DeLauro (D-Conn.), who also sits on Appropriations, offered a similar assessment when asked whether Democrats would rewrite the unpassed spending bills.

"I don't think so," she said.

Even though the CR is all but law, House Energy and Commerce Subcommittee on Environment Chairman John Shimkus (R-Ill.) urged the Rules Committee to allow an amendment to fund the Yucca Mountain nuclear waste repository.

Shimkus reminded Rules members that he was talking about waste in their states. "I'm not letting you off the hook," he said.

Reporters George Cahlink, Kellie Lunney, Nick Sobczyk, Manuel Quiñones and Jeremy Dillon contributed.

Greenwire: Shutdown back on the table as Trump balks

<https://www.eenews.net/greenwire/2018/12/20/stories/1060110271>

By George Cahlink, E&E News reporter

12/20/2018

President Trump says he won't sign a stopgap spending bill that would avert a partial government shutdown beginning at midnight tomorrow.

White House press secretary Sarah Huckabee Sanders said this morning in a statement that "at the moment" the president does not support a plan to level-fund a host of agencies — including EPA and the Interior Department — through Feb. 8.

The Senate backed the continuing resolution last night by voice vote to avoid a lapse in funding; the House had been expected to follow suit today or tomorrow.

But conservatives have been pressuring GOP leaders and the president to reconsider. Trump was due to meet with House Republicans at noon.

"At this moment, the president does not want to go further without border security, which includes steel slats or a wall. The president is continuing to weigh his options," Sanders said.

The president has for weeks insisted any spending deal must include \$5 billion for building a border wall between the U.S. and Mexico.

The White House, however, seemed to soften its stance earlier this week, saying it did not favor a government shutdown and could find other ways to get the money.

However, conservative House lawmakers, led by the Freedom Caucus, have spent the week calling for Trump to reject the bill if it does not contain the new border spending.

Emerging from the White House, Speaker Paul Ryan and Majority Leader Kevin McCarthy said the president would not sign what the Senate passed.

The Senate, notably, did not leave for the holidays last night, with the chamber staying in session today in case the House were to reject the CR.

The stopgap is needed because the fight over border spending has prevented lawmakers from finalizing seven of the 12 fiscal 2019 appropriations bills. If there is a shutdown, nearly 400,000 workers will be furloughed without pay.

Bloomberg Environment: EPA Doesn't Need to License Michigan Open-Pit Mine, Court Says

<https://news.bloombergenvironment.com/environment-and-energy/epa-doesnt-need-to-license-michigan-open-pit-mine-court-says>

By Alex Ebert

12/20/2018

Licensing of an open-pit mine along a river dividing Michigan and Wisconsin can be left to state regulators, a federal court has decided.

The Environmental Protection Agency and Army Corps of Engineers didn't need to intervene and take over the permitting process of Aquila Resources Inc.'s proposed Back Forty Mine along the Michigan bank of the Menominee River, a federal judge in the U.S. District Court for the Eastern District of Wisconsin ruled Dec. 19.

The judge dismissed claims from the Menominee Tribe of Wisconsin, which argued the EPA and the Army Corps of Engineers needed to step in and re-do permitting for the copper, zinc, and gold mine. The tribe says the mine will pollute and disturb stretches of the Menominee River with historic tribal sites.

The ruling means the tribe can't force a do-over on the mine's permits or impose tougher regulations over the mine under Section 106 of the National Historic Preservation Act, which requires federal agencies to take into account the effects of mining projects on historic properties. The ruling also may have implications for a similar suit that a group of property owners have brought against the federal regulators.

Aquila praised the decision in a Dec. 20 statement.

"Back Forty Mine will be a safe, disciplined operation that promotes and supports local community socioeconomic development and is protective of the environment," the company said.

The mine received approval from the Michigan Department of Environmental Quality in June.

Mulling Appeal

The tribe is reviewing the decision and may appeal, Janette Brimmer, attorney for environmental litigation group Earthjustice, told Bloomberg Environment Dec. 20. Important cultural sites surround the proposed building sites, the tribe says, and its members perform religious rites nearby.

"This is just an unfortunate result," she said. "I don't think the decision fully considers the Administrative Procedure Act ramification and ramifications for the tribe."

The tribe claimed the Menominee River is a "navigable water" under the Clean Water Act, meaning the EPA should have stepped in to license the project instead of the state. However, the EPA declined, sending the tribe a letter saying that Michigan has federal approval to administer the mine's permits under the Clean Water Act.

Similar Suits

The tribe's suit is similar to another challenge, Coalition to Save the Menominee River v. EPA, filed by a coalition of Wisconsin residents in November. The judge, William C. Griesbach, is also the same.

Both suits rely on claims brought under the Administrative Procedure Act. The groups both claim the EPA and Army Corps of Engineers' decisions to not take over the permitting process, or to withdraw objections to the state permits, were "arbitrary and capricious."

In the tribe's case, Griesbach held that the Army Corps of Engineers had immunity. He also said that there was no "final agency action" from the EPA that the tribe could sue over.

The letter describing the state's authority was "purely informational in nature and did not make any factual or legal determinations about the waters at issue or about jurisdiction" because the letters merely reiterated or affirmed an earlier agency decision.

The Michigan Department of Environmental Quality and the attorney for the coalition of Wisconsin residents didn't immediately respond to Bloomberg Environment's requests for comment. The EPA declined to comment.

The case is Menominee Indian Tribe of Wis. v. EPA, E.D. Wis., No. 1:18-cv-108, 12/19/18.

E&E News: Oil patch states want authority for wastewater solutions

<https://www.eenews.net/energywire/2018/12/20/stories/1060110201>

By Mike Lee

12/20/2018

OKLAHOMA CITY — Regulators in three major oil-producing states are looking for new ways to handle the huge flow of wastewater produced by the drilling industry, a move that could have long-term implications for the environment and the water supply in the oil patch.

Texas, New Mexico and Oklahoma are all seeking permission from EPA to issue what are known as National Pollution Discharge Elimination System (NPDES) permits under the Clean Water Act. Their aim is to one day allow oil companies to divert their oil field wastewater to some kind of beneficial use, which could be irrigating crops, watering livestock, municipal use, or even discharging it into rivers and streams.

It's a long-term process, and it won't be cheap. Environmentalists and some residents in the oil-producing states are concerned that the idea is untested and could lead to contaminated crops or rivers.

But advocates, including oil and gas regulators in all three states, say it could help solve one of the industry's crucial logistical problems — where to dispose of the huge amounts of contaminated water that are a byproduct of oil and gas production.

In Oklahoma, regulators view it as a 10-year project.

"If we wait 10 years to try to find a solution, we're still going to be looking at a 10-year problem," Shellie Chard, water quality division director at the Oklahoma Department of Environmental Quality, said last week at an industry conference, quoting a maxim frequently used by the state's outgoing energy and environment secretary, Mike Teague.

For decades, companies have disposed of the waste, usually known as saltwater or produced water, by injecting it deep underground. But that's becoming more difficult, according to Chard and others who spoke at the Cost-Effective Water Management Congress here in Oklahoma City.

In Oklahoma, regulators have forced the industry to cut back on injection after the practice was linked to a string of earthquakes (Energywire, April 10).

And in Texas and New Mexico, researchers are warning that some of the underground reservoirs used to store produced water are showing signs of diminished capacity. Laura Capper, an industry consultant, said underground pressures are gradually rising in at least four counties on the Texas side of the Permian Basin.

"We've been injecting in some of these formations for a very long time, and they cannot support the same injection rates that they used to," she said.

Permian-sized problem

A lot of companies are trying to reuse produced water in their own operations. There are about 30 treatment operations in Oklahoma, speakers at the conference said. They typically consist of a series of tanks that separate any residual oil from the wastewater, and fabric-lined ponds that allow solids to settle out and other types of treatment.

But the volume of produced water is so big, the industry can't absorb it all. In the Permian Basin, companies get an average of a little less than 6 barrels of produced water for each barrel of oil, Capper said.

"Unless you live on the North Pole, you're downstream of somebody and are likely drinking or using reused water."

Shellie Chard, water quality division director at the Oklahoma Department of Environmental Quality

The Permian Basin is producing about 2.1 million barrels of oil a day just on the Texas side, which implies about 12 million barrels, or 504 million gallons, of wastewater a day. That's about five times as much water as the city of Washington, D.C., consumes in a day.

The wastewater can be highly contaminated, with everything from drilling chemicals to heavy metals and radioactive material carried up from the oil and gas formation. It can also contain as much as six times more salt than seawater.

State regulators have reported thousands of spills involving the salty waste over the years, and they're a particular concern for farmers and ranchers because the salt can do more damage to soil than an oil spill (Energywire, July 21, 2016).

It's technically feasible to clean up produced water and make it safe to drink, but it's costly, said Jeri Sullivan Graham, an assistant professor at the University of New Mexico who studied ways to reuse salty water.

It's more likely that oil companies and regulators will look for some kind of middle ground like an industrial use — using treated wastewater to offset potable water for cooling power plants, for instance.

"That's the first place we go, is replacing fresh water when we can," she said in a phone interview.

David Burnett, a professor at Texas A&M University who also studies technology for reusing produced water, said there are likely to be limits on how much the waste can be reused.

The cost of treatment has fallen dramatically — as low as 50 cents a barrel in some cases — but that's still 10 times higher than what most farmers pay for water, Burnett said. And the cost per barrel doesn't include the expense of piping or trucking the water to an end user.

The idea has critics, too. Written comments on a white paper on the topic in New Mexico were about evenly split between trade groups that approved of the idea and local residents who opposed it.

"NOOOO!!!!!!!" one woman wrote.

Cleaning water isn't easy

Treating produced water is a lot trickier than it sounds, said Dan Mueller, director of natural gas exploration and production at the Environmental Defense Fund. Most research has focused on getting the salt out of the fluid, but there can also be dozens of chemicals in the wastewater.

Ethylene glycol, for instance, is the main ingredient in most car antifreeze formulas, and it's often used in hydraulic fracturing. It can be poisonous if it's ingested, but EPA doesn't have a standard to regulate whether traces of the chemical are safe in drinking water, Mueller said.

"Treated produced water is an industrial effluent," he said at the produced water conference. "For the purposes of what you're doing with that water, clear doesn't mean it's clean."

There are already a handful of examples of states allowing alternative uses for produced water, but they're on a relatively small scale.

Pennsylvania allowed oil and gas companies to send produced water to sewage treatment plants until about 2010, then scaled back the practice because of concerns about the high levels of salt in the wastewater. A few companies in Pennsylvania still have recycling facilities that discharge treated water into rivers (E&E News PM, Oct. 20, 2011).

Colorado allows some produced water disposal from coalbed methane production, but not from fracking sites, a spokeswoman for the state Department of Public Health and Environments said in an email.

EPA's Region 6, which handles permitting for most oil- and gas-producing states, has issued only about a dozen NPDES permits in the last year, a spokeswoman for the regional office in Dallas said in an email.

In New Mexico, the state Department of Energy, Minerals and Natural Resources has been working on a white paper exploring produced water issues. In Texas, the state Railroad Commission has asked EPA acting Administrator Andrew Wheeler for assistance getting permitting authority for oil and gas wastewater.

In Oklahoma, the Department of Environmental Quality plans to send an application to EPA by the end of the month, asking for permitting authority over oil field-produced water, Chard said. So far, no companies have applied for permission to use produced water outside the oil field, she said.

Once the state has permitting authority, though, the cleaned-up wastewater could be used for a variety of purposes, including agriculture, industrial or municipal use.

Municipal sewage in the United States is often more contaminated than oil field waste, but it's treated and returned to rivers and lakes under EPA guidelines, where it's often consumed by the next town or city downstream. Some communities, particularly in drought-stricken Western states, have even experimented with "toilet to tap" systems that route treated water directly from sewer plants into the municipal water system (Climatewire, July 11, 2014).

"Unless you live on the North Pole, you're downstream of somebody and are likely drinking or using reused water," Chard said.

Detroit Free Press: (Opinion) Gov. Snyder: 10 years later, Great Lakes compact was a feat of foresight, leadership

<https://www.freep.com/story/opinion/contributors/2018/12/20/great-lakes-compact/2367775002/>

By Rick Snyder

12/20/2018

If the Great Lakes region were a country, it would be the third largest in the world. The regional economy generates more than \$6 trillion annually – about 30% of our nation's gross domestic product. The Great Lakes watershed contains 95% of North America's freshwater and about 20% – one-fifth – of the world's surface freshwater. More than 40 million Americans and Canadians depend on the Great Lakes St. Lawrence Basin for their water. In short, much of our livelihood depends on this precious natural resource.

Fortunately, years ago, the governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin, and the Premiers of Ontario and Québec, had the foresight to establish protections so the Great Lakes would benefit generations to come.

Earlier this month, we marked the 10th anniversary of the Great Lakes-St. Lawrence River Basin Water Resources Compact coming into force after being signed into law by former President George W. Bush. This compact was a first-of-its-kind water agreement. It created a comprehensive management framework for sustainable water use and resource protection. It also ensured that our waters would be available for those who depend on them most long into the future.

Many believed that the compact could not be done, but as a testament to its importance and the need, the governors persisted. It took nearly five years and more than 100 days of face-to-face negotiations just for the states to reach an agreement.

After the states agreed, the compact then needed to be ratified by all eight state legislatures and passed by both houses of the U.S. Congress. More than 1,700 legislators (95%) voted in favor of it before it was signed by the President — all in less than three years. This was no small feat.

Along the way, more than 60 public meetings were held and approximately 13,000 comments received. There was also collaboration with countless regional partners, stakeholders, mayors, local government officials, and members of Congress. This led U.S. EPA Administrator Michael Leavitt to say in 2004 that, "It is a textbook example of collaboration — two nations, multiple jurisdictions, NGOs, agriculture and industry — all working together for the greater good of the Lakes."

The dedication to this legislation by the many groups and people, as well as from states, Canada, and the leading organization — the Conference of Great Lakes and St. Lawrence Governors and Premiers (GSGP) — demonstrates how critical this compact and its protections are to our region and people.

The compact was not about parties or politics, but states and provinces across two countries uniting behind the common interest of protecting the future of the Great Lakes. Beyond the actual legislation, the compact is creating durable results. New water diversions outside of the region have been completely banned. All the states now regulate water withdrawals from the basin and have programs to encourage more efficient water use. It has grown relationships across our region, shaped more economic opportunities, and has served as a strong protection against threats to our waters.

The region coming together for the compact was also a catalyst for the Great Lakes Restoration Initiative. This initiative has received more than \$2 billion in new federal resources to protect and restore the Great Lakes.

The entire region is healthier and more prosperous because of this compact.

As I prepare to leave office, one of the things I am most proud of is our protection of the Great Lakes and our many achievements stemming from this compact. I am excited to be celebrating its 10th anniversary, but we cannot become complacent. We must continue to be good stewards of this national treasure by protecting the compact and keeping the Great Lakes healthy for generations to come.

Rick Snyder is governor of Michigan.

Utility Dive: As 67 coal plants in 22 states report coal ash violations, greens fear prolonged cleanup

<https://www.utilitydive.com/news/as-67-coal-plants-in-22-states-report-coal-ash-violations-greens-fear-prol/544843/>

By Catherine Morehouse

12/20/2018

Dive Brief:

Sixty seven coal plants across 22 states in the U.S. are reporting that toxic contamination in groundwater at their coal ash impoundments exceeds federal health standards, according to data from multiple utility filings obtained by a band of environmental groups.

In response, those groups on Wednesday filed a petition for review against the Environmental Protection Agency (EPA) and Acting Administrator Andrew Wheeler's rollbacks of Obama-era coal combustion residuals (CCR) requirements. The petition was filed by Earthjustice, The Environmental Integrity Project and Sierra Club, on behalf of Clean Water Action, Hoosier Environmental Council, Prairie Rivers Network, HEAL Utah and Waterkeeper Alliance.

CCR rules require restoration of those contaminated sites, but the EPA's July modifications, adopted at the behest of industry, could potentially push back clean up dates.

Dive Insight:

"At the same time that companies are admitting that contamination is bad and cleanup is required, the administration is giving industry additional time to operate the leaking impoundments," Lisa Evans, Senior Counsel at Earthjustice told Utility Dive.

Last weekend and early into this week, utilities began posting notices indicating they had found "statistically significant increases in hazardous metals in their groundwater, and that these metals are exceeding the federal standards" on groundwater pollution, according to Evans.

The majority of utilities reported toxic levels of one or more pollutants as well as aquifer violations, which mandate the bottom of ash pits be at least five feet above groundwater.

"The majority of these impoundments are sitting in the groundwater," said Evans. So, "there's greater threat because contamination can directly enter the groundwater, and you'll get more contamination at a faster rate."

Those violations require utilities to clean up the areas through a public restoration plan, meaning groundwater pollution and subsequent mitigation actions need to be publicly addressed.

"It's gone beyond the simple step of just discussing contaminated groundwater or pointing fingers at sites that are contaminated," said Evans. "Now real work has to be done to begin to restore these sites."

A commonality among the filings is the ineffectiveness of storing coal ash in unlined storage pits, a point environmentalists have been pushing for some time.

Utilities have "all chosen to dispose of coal ash in unlined dumps, whether they're landfills or coal ash ponds, and now we know that most of them are leaking," said Evans.

Amid federal rollbacks, a U.S. Court of Appeals for the D.C. Circuit in August found the requirements laid out in the 2015 CCR rules didn't go far enough in preventing groundwater pollution. The ruling specifically addressed provisions in the Obama-era rule that allow unlined pits to continue taking in waste and exempt ponds at retired coal plant sites from the same regulations as active sites.

Those concerns came to a head this hurricane season, when Hurricane Florence caused over 2,000 cubic yards of coal ash, stored in unlined pits, to spill into the nearby Sutton Lake cooling pond. The lake later overflowed, leaking the toxic chemicals into the Cape Fear River. Water testing at a school in North Carolina earlier this month revealed "high levels of an unregulated contaminant," which may be linked to coal ash from Florence flooding, the Statesville Record & Landmark reported Tuesday.

Part of the EPA's changes included reinterpreting utility deadlines to file groundwater reports, so data notices will continue to be posted throughout the next three months. Two coal-heavy states, Illinois and Indiana, still have not filed their data, though a report in November found waste in Illinois was leaking into groundwater from several unlined pits.

"What we're reporting is a snapshot in time, but we expect these numbers to increase substantially," said Evans. The EPA did not release the "phase two" of its CCR rollbacks in December, as anticipated, but will likely propose modifications early next year.

The full list of data on sites reported so far spans from Iowa to Florida. The table lays out which chemicals exceed groundwater standards, if those units are lined and if they are in compliance with the five feet above an aquifer standard. Landfills were not required to report on the aquifer separation requirements or note whether their site is lined or unlined.

NBC Chicago: 1984 Document Details EPA's Concerns of Willowbrook Sterigenics Plant

<https://www.nbcchicago.com/news/local/sterigenics-willowbrook-503179191.html>

By Ash-har Quraishi

12/19/2018

Residents say the Illinois Environmental Protection Agency has known about the cancer risk from the Willowbrook Sterigenics plant for decades. And they say it is time for them to act.

"They're operating 24/7," neighbor Sri Rao said. "You wake up in the middle of the night and you know they're pumping this gas out into our community."

Sterigenics, operating since 1984, uses the chemical ethylene oxide for medical sterilization. In August residents were notified that the carcinogenic emissions from the plant posed a potentially elevated cancer risk to at least 19,000 residents living nearby.

"In general, we want to reduce those as low as possible because every additional exposure adds to our cancer risk," Dr. Peter Orris, chief of occupational and environmental medicine at the University of Illinois Chicago said.

On Tuesday residents obtained this letter from the IEPA dated July 6, 1984. It detailed concerns the agency had, more than 30 years ago about the plants proposed emissions.

"We're now facing levels of over 2400 times what IEPA has considered the maximum safe limit," Rao said.

The IEPA responded the decades-old document.

"Our records from nearly 35 years ago indicate that before national emission standards for hazardous air pollutants (NESAP) was adopted for ethylene oxide, the agency identified the issue, raised it with the source and ultimately required installation of controls," it said.

Residents are demanding governing agencies take action now.

"They've known that this is a problem for 34 years," Rao said. "We have data taken recently around this area that confirms the emissions are in the problem area."

The U.S. EPA says it needs a minimum of three months of air quality testing to complete its risk assessment. The DuPage County state's attorney's office says they are still in the process of gathering evidence.

Chemical Watch: US EPA seeks lead reductions in cosmetics, consumer products

<https://chemicalwatch.com/72932/us-epa-seeks-lead-reductions-in-cosmetics-consumer-products>

By Lisa Martine Jenkins

12/20/2018

The US EPA is looking to reduce exposure to lead from cosmetics and consumer products as a part of its recently published management plan to address the heavy metal.

The 'Federal Action Plan to reduce childhood lead exposures and associated health impacts' is particularly concerned with children in populations that are disproportionately affected.

Much of the EPA's approach seeks to reduce environmental exposures to lead from paint, drinking water, soil and emissions. However, it also prioritises limiting exposure through cosmetics and consumer products where it may be present as an impurity.

On the latter objective, the agency recommends that the Department of Health and Human Services (HHS) and the Food and Drug Administration (FDA):

- continue to monitor domestic and imported cosmetics for lead impurities;
- participate in international lead reduction efforts;
- monitor and post results of lead levels in cosmetic products, including tattoo inks, through FDA's survey activities; and
- issue final guidance for a maximum lead level in cosmetic products.

The plan calls on the Consumer Product Safety Commission (CPSC) to maintain and build upon its current activities by:

- enforcing regulations on lead content and lead paint limits for consumer products;
- enforcing labelling requirements to prevent consumer product-related lead exposure; and
- working internationally to improve foreign suppliers' compliance with US lead-based paint and total lead content requirements.

The EPA says the document "does not imply approval for any specific action", but that it will inform future federal budget and regulatory development processes in accordance with the goals indicated.

Inside EPA: Wheeler Seeks To Deflect Criticism Over Lead Plan's Lack Of New Rules

<https://insideepa.com/daily-news/wheeler-seeks-deflect-criticism-over-lead-plans-lack-new-rules>

By Dave Reynolds

12/19/2018

EPA Administrator Andrew Wheeler sought to deflect questions and criticism that the Trump administration's new plan for reducing children's exposures to lead lacks any new commitments to craft enforceable regulations, arguing that the agency's commitments to finalizing rulemaking efforts that are already underway are "new."

During a Dec. 19 news conference at EPA headquarters in Washington, DC, Wheeler and other administration officials outlined the highly-anticipated new interagency plan that agency critics, including environmentalists and a recently removed director of its Office of Children's Health Protection (OCHP), have long expected would lack any new enforceable rules to protect children.

When asked whether the plan included new regulatory requirements or was simply a compilation of existing efforts, Wheeler told reporters that the plan "is a combination of both."

He described the plan's commitments to finalizing rules that have been years in the making to tighten limits for lead in drinking water and dust from lead-based paint as new steps.

"I think there are quite a few new things in there," Wheeler said. As examples, he cited the agency's plans to propose strengthening its lead and copper rule (LCR) this spring, which was expected last summer, and finalize in June a final rule strengthening EPA's lead dust hazard standards for lead based paint in housing, which is required by court order.

"We may have worked on [the rules] for a while, but we're committing to specific time frames," he added.

But environmentalists are portraying the new inter-agency plan as merely paying lip service to reducing children's lead exposures by recounting existing or mandatory steps, rather than proposing new limits.

"The administration promised a strategy and delivered a repackaged bundle of activities many of which were already underway during the last administration," Environmental Defense Fund Chemical Policy Director Tom Neltner says in a statement. "It lacks the measurable goals, deadlines, or funding essential for success."

The Natural Resources Defense Council (NRDC) highlights the plan's description of lead as posing a significant health and safety threat to children but also says it lacks new mandatory rules for addressing the risk.

"Feel-good promises to 'consider' and 'evaluate' actions, without time frames or commitments to take specified regulatory or enforcement action, won't protect children," Erik Olson, NRDC's senior director of health and food says.

"The agencies say they will 'consider' revisions to lead hazard standards from paint, as appropriate. PLEASE NOTE: EPA is under a court order to do so by July 2019," he adds. "'Considering' complying with a court order doesn't cut it."

Wheeler, along with U.S. Department of Housing and Urban Development Secretary Ben Carson, and Department of Health and Human Services Deputy Secretary Eric Hargan, announced the long-awaited plan that broadens a prior 1990s strategy for reducing children's exposures to lead-based paint to also consider exposures through other media.

Specifically, the "Federal Action Plan To Reduce Childhood Lead Exposures and Associated Health Impacts" calls for four categories of actions, including reducing children's exposure to lead, identifying and helping lead-exposed children, improving communication with stakeholders, and supporting and conducting research to inform future lead reduction efforts.

As part of the effort, EPA plans to issue by March 2019 an implementation plan with performance metrics for monitoring the agency's progress and demonstrating accountability for meeting the plan's goals.

Government Responsibility

Trump administration officials, including former EPA Administrator Scott Pruitt have promised a "war on lead," a metal that many say has no safe level of exposure. But administration critics, including the former head of EPA's OCHP, who spear-headed the strategy, before her removal, said the plan appeared unlikely to impose new rules.

Former OCHP Director Ruth Etzel told media outlets after her dismissal from the agency this fall, that the Trump administration officials were "stonewalling" any new enforceable standards to reduce children's exposures to lead, and that Wheeler had refused her requests for meetings on crafting the plan.

"My sense is that the government has absolutely no intention of taking any action toward seriously changing lead in children's environments," Etzel told CBS This Morning in an interview televised Oct. 15.

"It basically means that our kids will continue to be poisoned," she added. "It basically means that kids are disposable, they don't matter."

Members of EPA's Children's Health Protection Advisory Committee (CHPAC) also have raised concerns about Etzel's dismissal, and the agency's efforts to protect children from lead and other risks in her absence.

"It's really important for us that the administration really walks their talk," CHPAC Chairwoman Barbara Morrissey told the EPA officials during the CHPAC's Oct. 11-12 meeting in Washington, D.C. "We're going to be looking for action."

At the news conference, Wheeler strongly backed EPA's responsibility to protect children from lead exposures, and argued that the plan to accomplish long-pending efforts to strengthen rules for reducing children's exposure to lead in paint dust in housing and through drinking water from old pipes show the plan will protect children.

He said that protecting people, especially the most vulnerable, is "the first and foremost responsibility of government," and that children in many communities face significant exposures to lead through paint in housing and old pipes that deliver drinking water.

"The Federal Lead Action Plan will enhance the Trump Administration's efforts to identify and reduce lead contamination while ensuring children impacted by lead exposure are getting the support and care they need," he said.

In describing the plan's core elements, Wheeler cited agency rulemaking efforts that are already underway.

"We will have our new lead dust standards out by June of next year, and we're working on [updating] the lead and copper rule to reduce lead and copper contamination around the country," he said.

"There are a number of regulatory programs to reduce lead exposure in homes and those envision different enforcement mechanisms," he added. "So we're moving forward on a number of different fronts."

Wheeler Nov. 28 told a Washington Post live event that EPA planned to issue the LCR update in early in 2019. While EPA had planned to propose the changes to the 20-year-old lead and copper rule before the end of this year, Wheeler told the newspaper event that he delayed it to better prioritize replacing the leakiest lead pipes first.

The new interagency plan describes EPA actions for reducing children's exposures to lead, including by continuing to implement existing rules requiring proper training of firms that abate lead-based paint hazards, and increasing the number of certified firms for conducting lead-safe renovations through targeted outreach to contractors.

EPA also lists as planned actions updating the LCR based on input from state and local partners and best available science, as well as finalizing regulatory changes to the definition of lead-free plumbing products and making other changes to implement the Reduction of Lead in Drinking Water Act and the Community Fire Safety Act.

While environmentalists have called for EPA to upgrade standards for reducing exposure to lead in soil, the plan calls for managing lead contamination at contaminated sites and for continuing to reduce children's exposures through remedial and corrective actions.

The plan also calls for the Occupational Safety and Health Administration to issue an advanced notice of proposed rulemaking to seek public input on possible revisions to lead standards to better reduce workers' preventable lead exposures on the job, adding that children may be exposed to lead on their parents' clothing when they return from work.

The Washington Post: In Detroit, one school leader's reaction to lead in the water: Shut off the taps

https://www.washingtonpost.com/national/health-science/in-detroit-one-school-leaders-reaction-to-lead-in-the-water-shut-off-the-taps/2018/12/19/b653fad6-f418-11e8-aeaa-b85fd44449f5_story.html?utm_term=.41afec682db2

By Brady Dennis

12/19/2018

DETROIT — The results landed on Nikolai Vitti's desk on a late summer afternoon, days before Detroit's nearly 50,000 public school students would return to class. The findings were definitive and disturbing: In initial tests, two-thirds of schools showed alarming levels of lead in the water.

It was the latest in a growing list of crises for Detroit's new schools superintendent, barely a year into his job. The city's 106 schools needed \$530 million in capital improvements, with no real way to fund them. Vitti had been chipping away at a daunting teacher shortage, overhauling outdated curriculums and trying to place an art teacher on every campus.

Earlier in the year, he ordered universal water testing for Detroit's schools — testing that is not required by local, state or federal governments — and the answers he got that August afternoon were confounding. Old schools, newer schools, high schools, elementary schools — all proved susceptible to lead contamination.

Vitti talked over the problem with his wife. He thought about his own four school-age children. He conferred with the school board president. Then he issued a directive: Shut off drinking water in every school before students return. Turn to bottled water.

At home that weekend, he typed a letter to Detroit's parents. He noted that the district had done what most others across the country do not — test its water despite the lack of any requirement to do so. "We did this because it was the right thing to do for our students and staff," he wrote. Vitti added he would begin searching for a remedy, but wrote, "There are no quick solutions to our challenge."

His decision cost the cash-strapped district hundreds of thousands of dollars a month for bottled water and alarmed some parents. But it has been widely praised as the right move in the face of a fraught problem, one school leaders across the country still face, with no simple answers.

There is no federal requirement for schools to periodically test their water — and none in sight — and the few states that mandate it have taken different approaches.

On Wednesday, the Trump administration released a long-awaited "federal lead action plan" to "help federal agencies work strategically and collaboratively to reduce exposure to lead with the aim of ultimately improving children's health."

But when it comes to schools, the proposal includes few new initiatives, and no mandatory requirements. The Environmental Defense Fund, an advocacy group, called the proposals "deeply disappointing" and said it was comprised of a "repackaged bundle of activities" that already exists.

The lack of any nationwide standards has resulted in a patchwork system in which local officials, with stretched budgets and a long list of other priorities, are left largely on their own to contend with whether to test, how to do it and what action to take when they almost inevitably find lead.

School systems throughout the nation have long wrestled with lead in water, in part because of the intractable problem of lead-bearing fixtures and pipes in aging buildings. Unlike in homes or other structures, water in schools tends to stagnate over summers and long holiday breaks, increasing the chance of lead leaching into pipes. Add that to understaffing, crimped budgets and a lack of regulation, and water testing seldom rises to a top priority.

In the wake of the water crisis in Flint, Mich., which started in 2014 and left thousands of young children exposed to lead, school systems from coast to coast encountered renewed pressure to test for lead, an issue many have wrestled with — or in some cases largely ignored — for decades.

Some school districts have embraced voluntary testing. A growing number of states, namely New York, California and Maryland, have passed laws requiring it. But four years after Flint, even as exasperated parents have pushed schools to test and some lawmakers have weighed whether to make it mandatory everywhere, many of the nation's schools are not looking for lead in their water.

A Government Accountability Office survey in the summer found that only 43 percent of school districts tested their water in either 2016 or 2017. Of those that did, an estimated 37 percent found lead levels above the Environmental Protection Agency's "action level" of 15 parts per billion.

"It's an important battleground, a real battleground," said Virginia Tech professor Marc Edwards, who helped expose the Flint water crisis. "There's no national standard, and so it's total chaos."

The decision to test struck Vitti as a moral obligation. How could you ensure the safety of students, he said, without knowing whether they were being exposed to lead in the water at their schools? Likewise, the decision to turn off the taps seemed like an obvious choice.

"I consulted my conscience," Vitti recalled in an interview, adding he saw less-expensive half-measures as not defensible. "I don't think I could have looked in a child's face, or a parent's face, to say, 'I can assure you that your children will be safe in our school system.'"

Afterward, Vitti gathered principals together to explain his reasoning. He stood onstage at community meetings to answer questions from parents and other residents. He also encountered a range of sentiments from colleagues across the United States.

"I've heard, 'I can't believe we don't test water.' I've heard, 'We need to test the water.' I've heard, 'If we have to test the water, we're going to be in the exact same position that you're in.' I've heard, 'We better not test the water because we'll have a problem that we don't want to deal with,'" Vitti said. "I've heard, 'I don't need to test the water because it's not required.' I've heard, 'We tested one water source and declared our water safe.'"

"I've heard all that," he went on. "And I say, ignorance should no longer be bliss because we're talking about the safety and well being of children."

Edwards said he views the situation in Detroit as a success story, for a simple reason. "The real problem is the schools that never test," Edwards said. "The worst problems are the ones we don't hear about."

Doctors and other health officials have made clear that there is no safe amount of lead exposure. Exposure to even small amounts "can cause irreversible cognitive and behavioral problems," especially in young children, according to the American Academy of Pediatrics.

But even in school districts with good intentions, strained budgets, understaffing and a lack of expertise can leave testing water and worrying about aging pipes and fixtures far from the top of the priority list.

“Money is going to be the first thing that holds them back” from testing and remediation, said Claire Barnett, executive director of Healthy Schools Network, a nonprofit organization that advocates for environmental health in schools.

She said another hindrance is that officials running schools often aren’t focused on the buildings themselves. “They come in to reform education, not fix the buildings and the grounds,” Barnett said. “The conditions of buildings have never been a priority in the K-12 world.”

In 2016, New York became the first state to require school districts to test drinking water for lead. State lawmakers from California to Colorado, from Maryland to Minnesota, have followed suit. But even so, testing timelines, protocols and funding differ.

The reality on the ground remains fraught. Even when school districts take the initiative to test, some face criticism from parents who say they weren’t notified soon enough of elevated lead levels. The remedies, and how to pay for them, also vary.

“It cries out for national standards,” Edwards said. “What you have is a knockdown, drag-out fight at every school system . . . Everyone ends up being mad, and you’ve got unequal protection around the country.”

The EPA has published guidance on how school systems can test for lead. In the fall, the agency announced \$20 million in grants to help localities pay for testing at schools and child-care centers. But until a national standard emerges, local districts will be left to find their own way.

For the moment, the hallways of many Detroit schools remain dotted with five-gallon water coolers — about one for every 100 students — while water fountains are hung with signs that say: “Do not drink.”

In Martin Luther King Jr. Senior High School, one cooler stood down a hallway labeled Birmingham Boulevard. Another waited for students heading to class down Achievement Avenue.

Down the road at Chrysler Elementary School, a water cooler stood near the front entrance, not far from where the chess club gathered on a recent afternoon. Nearby, a kindergarten P.E. class drank water from white paper cups. “They think it’s cool,” their teacher said.

Roshanda Smith, who had warned her fifth-grade daughter before about drinking from school fountains, sighed at the mention of the lead problem. “It’s frustrating as a parent,” she said. The school system handled the issue quickly and transparently, she added, but “I just think it’s sad that our students have to go through this.”

Vitti understands.

“I’ve heard anger, frustration. Outrage over the fact that we’re even having this conversation in Detroit. It just feels like one more thing that the city and specifically its children have to deal with,” he said.

“I share that level of frustration and anger and overall disappointment,” he added, “but I can’t stay in that space. As a leader, you have to move toward a solution.”

The solution Vitti eventually proposed was not cheap: approximately \$3 million to purchase and install highly filtered water-hydration stations for every Detroit school. It would be exponentially cheaper and more practical than ripping out thousands of aging pipes and fixtures, but expensive nonetheless.

So in the fall, Vitti and his staff members began working the phones. They called United Way for Southeastern Michigan. They reached Ford, General Motors and other major companies. In the end, they secured \$2.4 million in philanthropic commitments for the undertaking.

On Oct. 9, the school board approved Vitti's plan. Later that day, he stood before a small crowd in an elementary school library to announce hydration stations would soon start showing up in Detroit schools.

"This is not something we should be having a conversation about. We should expect water to be clean enough to drink," he said. "This is a national issue, and it should have a national solution."

But in the meantime, the local solution would have to do.

"We're not waiting," he said. "Our children can't wait for safe water."

Post-Tribune: EPA, IDEM approve disposal of contaminated material in East Chicago facility

<https://www.chicagotribune.com/suburbs/post-tribune/news/ct-ptb-east-chicago-cdf-approval-st-1221-story.html>

By Craig Lyons

12/20/2018

A plan to dispose of PCB-contaminated material from the Indiana Harbor and Shipping Canal in an East Chicago waste facility has won federal and state approval.

The U.S. Environmental Protection Agency and Indiana Department of Environmental Management on Thursday announced they've approved an Army Corps of Engineers plan to dredge the canal for contaminated material and dispose of it in an open-air facility in East Chicago.

"After a thorough evaluation and with careful consideration of public comments, EPA and IDEM have determined that the confined disposal facility is a safe, proven and cost-effective way to handle this type of waste," the EPA and IDEM said, in a press release.

During a more than year-long review, the two agencies said the Army Corps will only need to dredge and dispose of roughly 20,000 cubic yards of material, which includes several identified "hotspots" of high PCB contamination.

The Army Corps first planned on dredging 60,000 cubic yards of material.

"That's a pretty considerable reduction," said Chris Korleski, director of the Great Lakes National Program Office.

Korleski said new data reviewed by the agencies estimated that roughly 4,000 cubic yards of canal sediment have high concentrations of PCBs.

Korleski said the CDF remains the "only feasible option" for disposing of the material.

In 2017, the federal and state environmental agencies stayed their review of the plan and began a feasibility study to look at alternatives, including using the confined disposal facility, after receiving public comments on the proposal.

During the review, the agencies found that the amount of material that would need to be dredged from the canal was lower than first proposed by the Army Corps.

Jean Greensley, a geologist with the EPA Region 5 Land and Chemicals Division, said any existing monitoring of the CDF will remain in place. She said the Army Corps will have air monitors, a gradient inside the facility so contaminants don't escape; external protections and groundwater systems.

Greensley said the Army Corps will have to maintain the CDF in perpetuity, and that includes air monitoring and any other protections.

"The CDF was designed and constructed for exactly this kind of storage," Korleski said.

Korleski said a fundamental aspect of the project is that it removed the PCBs from the environment where it could affect human health.

"We think that's the most fundamental thing," Korleski said.

EcoWatch: What Lies Beneath: To Manage Toxic Contamination in Cities, Study Their Industrial Histories

<https://www.ecowatch.com/toxic-contamination-industrial-cities-history-2623943137.html>

By James R. Elliott and Scott Frickel

12/20/2018

Philadelphia's hip Northern Liberties community is an old working-class neighborhood that has become a model of trendy urban-chic redevelopment. Crowded with renovated row houses, bistros and boutique shops, the area is knit together by a pedestrian mall and a 2-acre community garden, park and playground space called Liberty Lands.

First-time visitors are unlikely to realize they're standing atop a reclaimed Superfund site once occupied by Burk Brothers Tannery, a large plant that employed hundreds of workers between 1855 and 1962. And even longtime residents may not know that the 1.5 square miles of densely settled land around the park contains the highest density of former manufacturing sites in Philadelphia.

Over the past 60 years, more than 220 factories operated in this same small area. Nearly all did business before the mid-1980s, when the U.S. Environmental Protection Agency (EPA) started requiring businesses to report releases of toxic materials.

In our book, *Sites Unseen*, we set out to discover how many such former sites exist and why, over time, they simultaneously seem to proliferate and disappear from view. The data we collected from state manufacturing directories dating back to the 1950s don't tell us whether specific addresses we found are presently contaminated. But they do provide richly textured maps of where and for how long hazardous industrial activities operated in four very different cities—New Orleans, Minneapolis, Portland and Philadelphia. Our findings strongly suggest that these and many other American cities now face a legacy hazardous waste problem they don't even know they have.

According to data recently released by the EPA, in 2017 industrial facilities (excluding mining operations) released 1.1 billion pounds of hazardous waste at the point of production or "on site." That number is an understatement, because government records rely on voluntary reporting and exclude smaller manufacturing facilities that also pollute. And there is virtually no public documentation of similar releases before the 1980s.

To investigate the scope and scale of this problem, we identified relic and active sites from state manufacturing directories, which can be found in public libraries nationwide. These guides are largely untapped sources of information about where manufacturing activities occurred, for how long, and what each facility produced. In each city we analyzed, we were surprised to learn that government databases ostensibly designed to identify hazardous sites actually captured less than 10 percent of historically existing manufacturing sites.

Through follow-up surveys, we learned that 95 percent of relic manufacturing sites are used today for activities other than hazardous industry. We found coffee shops, apartments, restaurants, parks, child care centers and much more at these locations. These patterns corroborate processes which we now suspect drive both the spread of contaminated urban lands and the concealment of their past uses.

Like other businesses, most hazardous industrial facilities operate for a time, then go out of business or move their operations elsewhere. This constant turnover is an ongoing, fundamental feature of urban economic development. And

because urban land is limited and valuable, those lots typically are redeveloped for non-industrial uses when they become available.

Our data show that hazardous industrial sites turn over every eight years, on average. This means that an individual lot can be redeveloped multiple times, sometimes over the span of just a few decades. For example, one Portland, Oregon address that we investigated housed a neon sign and sheet metal fabricator during the 1950s, then the office of a dry bulk trucking company, and is now a doggy day care center.

These interlocking processes of land use and reuse have far-reaching environmental impacts that social scientists are only beginning to recognize. Lot by lot, small but ongoing changes in urban land uses spread toxins across urban areas. At the same time, pressures for redevelopment often cover up the evidence.

In these ways, large, long-lived industrial sites, like the former Burk Brothers Tannery in Philadelphia, represent the tip of the iceberg of urban industrial activities and resulting contamination. Government agencies typically identify and clean up these large, visible sites that are known or widely suspected to be contaminated. And often they offer developers incentives to build on them, including liability waivers.

All the while, thousands of smaller, less prominent but potentially polluted sites go unnoticed, contributing to a much more systemic environmental risk.

Based on the research we did for our book, we believe the problem of relic industrial waste is far greater and more vexing than many scholars, regulators and developers appreciate. And this complexity has important implications for environmental justice and the question of who lives, works and plays in neighborhoods burdened by relic industrial contaminants. Communities can't set priorities for cleaning up contaminated land until they identify relevant sites.

Environmental justice studies that use more limited government data on hazardous sites provide consistent evidence that polluting industries and environmental hazards are more frequently imposed on poor and minority communities. But our findings suggest that, over time, risks also accumulate over broader areas—including white working-class neighborhoods of yesteryear, lower-income and minority neighborhoods that superseded them, gentrifying areas such as Philadelphia's Northern Liberties that are now selectively following, and whatever comes after that.

It is a basic social fact of urban life that industrial hazards accumulate and spread relentlessly. The sooner this problem is recognized, the sooner Americans can reclaim their cities and the environmental regulatory systems that are designed to ensure our collective well-being.

One way forward is for regulatory agencies to undertake historical investigations of relic industrial sites, using the same publicly available sources that we have used. Concerned citizens and neighborhood groups can do so as well, and the DIY User's Guide at the end of our book describes how to do it.

Bloomberg Environment: EPA to Consider Whole Pesticide Product Toxicity Testing

<https://news.bloombergenvironment.com/environment-and-energy/epa-to-consider-whole-pesticide-product-toxicity-testing>

By Tiffany Stecker

12/20/2018

The EPA is considering a request to change how it tests pesticides, a move toward looking at products' entire formulation as sold rather than just the active ingredient chemical that kills pests.

The agency will publish a notice in the Dec. 21 Federal Register soliciting comment on the petition through March 21, 2019.

The Center for Food Safety petitioned the Environmental Protection Agency to make the changes in July 2017. The organization asked that the EPA take into account all pesticide ingredients' effects on the environment, consider the

effects of mixtures that occur when different pesticides are combined, test inert ingredients for toxicity, and consider the impacts of whole pesticide formulations on endangered species.

The EPA now only requires toxicity data on a pesticide's active ingredient, which is the chemical with insect, weed, or germ-killing properties in a pesticide product. But other ingredients used in pesticides to stabilize formulations can also affect health and the environment.

Pesticide mixtures can also cause "synergistic" effects in which two chemicals amplify the effects of the pesticide when mixed together.

The issue was raised in 2015 when the EPA discovered it overlooked a Dow Agrosiences patent application for its herbicide Enlist Duo in which the company claimed two weedkilling chemicals amplified each other's effects. The EPA had not considered this in its review and subsequently canceled its own approval of the pesticide.

Attorneys in litigation alleging Bayer AG's Roundup herbicide caused non-Hodgkin lymphoma in users also point to polyethoxylated tallow amine, a surfactant in the herbicide, as toxic to human cells. The arguments in the lawsuits, however, center on the main ingredient in Roundup, the chemical glyphosate.

Detroit Free Press: PFAS panel: Drinking water standards for chemical may be too lenient

<https://www.detroitnews.com/story/news/local/michigan/2018/12/20/pfas-panel-drinking-water-standards-chemical-may-too-lenient/2374303002/>

**By Beth LeBlanc
12/20/2018**

Lansing — An independent science panel has recommended Michigan lower its drinking water health advisory level for per- and polyfluoroalkyl, but changes are unlikely to be adopted before year's end.

The 90-page report from the state's PFAS Science Advisory Committee released Tuesday includes extensive research on the emerging contaminant long used in firefighting foam, tanneries, metal platers, Scotchgard and Teflon. The report makes 17 recommendations for future action on the issue, some of which already are being done by the state.

The report cites several pieces of evidence indicating levels of PFAS lower than 70 parts per trillion — the current state and U.S. EPA health advisory level for drinking water — can hurt human health. PFAS has some links to negative health effects such as thyroid disease, increased cholesterol levels, and kidney and testicular cancers

But the report stops short of recommending a new level. Instead, the panel recommended the state adopt a level similar to agencies that have based theirs on toxicological outcomes, develop a level based on epidemiological findings or a new level based on a combination of both toxicological and epidemiological data.

The panel of scientists who researched and prepared the report over the past six months admitted that research on PFAS is sparse, but enough to acknowledge 70 ppt may be too high of a drinking water standard, said Dr. David Savitz, a Brown University professor of epidemiology and chairman of the state's science panel.

"It's not an ideal situation, where every state, every agency even within the federal government is trying to reach their own judgement," Savitz said. "I think it's a very confusing message to the public."

Gov. Rick Snyder believes a review of the panel's recommendations combined with a review of PFAS nationwide "needs to be done as soon as possible next year so that the appropriate policies and standards can be enacted in Michigan," his spokesman Ari Adler said.

In a phone call with reporters, Carol Isaacs, director for the Michigan PFAS Action Response Team, said the study had been shared with the incoming administration of Democrat Gretchen Whitmer as well as some suggestions for follow-up.

A new standard could be developed in “a matter of weeks,” Isaacs said. “But that would be after you assemble the group of people who should, in all fairness, be part of a process where we are setting standards to protect public health.”

Democratic Rep. Winnie Brinks of Grand Rapids criticized the timing of the report and delays that have pushed reform into 2019. Brinks introduced a bill last year that would lower the drinking water health advisory level from 70 ppt to 5 ppt, but the bill has yet to see any movement in the House.

“We’re still at this position where they aren’t making a definitive recommendation that would actually protect the health of our constituents,” Brinks said.

In the meantime, bills approved by the Legislature would make it harder to adopt an environmental rule stricter than federal standards and another that sets toxicology standards for contaminated land are headed to the governor’s desk, Brinks said.

“It’s my hope that the governor will veto these bills,” Brinks said.

Among the recommendations from the group were suggestions to continue looking at the effects of PFAS in both animal and human data, continue testing water systems and look at all options for remediation, ensure proper disposal of the chemical, and explore the effects of lesser known PFAS chemicals such as PFSA, PFCA and the replacement chemical GenX.

This year, the state tested more hundreds of community water supplies, school water supplies, day care centers, some testing of private wells, and surveys of more than a thousand fire stations and airports.

The testing is some of the most extensive in the nation, Isaacs said, and the science panel’s report is sure to “be read across the nation because this remains a national issue.”

The National Law Review: Medication or Hazardous Waste?

<https://www.natlawreview.com/article/medication-or-hazardous-waste>

By Daniel M. Bates, Linda E. Benfield, Thomas Maurer, Sarah A. Slack, and Peter A. Tomasi

12/20/2018

While much of the environmental bar was focused on the Waters of the U.S. rulemaking, on December 11, U.S. EPA Acting Administrator Andrew Wheeler signed the new hazardous waste pharmaceutical rule. The final rule retains a proposed requirement, opposed by industry, that prescription pharmaceuticals sent from health care facilities to reverse distributors first be considered “disposed of,” regulated as solid waste and evaluated for hazardous classification at the health care facility. This rule will impose significant new obligations on health care providers, including pharmacies and long-term care providers, as well as forward and reverse distributors of pharmaceuticals.

Decades of Policy. In the 1980s and 1990s, U.S. EPA took the position in policy memoranda that pharmaceuticals in the reverse distribution chain were “not considered wastes until a determination has been made to discard them.” That approach worked well for health care providers, who frequently relied on reverse distributors to determine whether their unused prescription and over-the-counter medications could be credited/reused/reclaimed or should be discarded. Under the George W. Bush Administration, U.S. EPA proposed to classify returned pharmaceuticals as “universal waste” entitled to relaxed management standards, but never finalized that rulemaking after concerns were raised regarding the potential diversion of narcotics and other medications regulated by the Drug Enforcement Agency (“DEA”). The Obama Administration proposed the current rule in September, 2015, offering an entirely new set of management standards for unused pharmaceuticals. In the subsequent three years, a number of industry participants met with U.S. EPA as well as the Office of Management and Budget regarding the scope of the rule.

The New Approach. In the December 11 publication of the final rule, U.S. EPA expressed its concern that many industry participants have come to disregard the intent behind the agency’s prior guidance, and erroneously believed that it was

a blanket statement that no pharmaceuticals going through reverse distribution were considered solid waste. As a result, the final rule treats prescription pharmaceuticals—but not non-prescription pharmaceuticals—as having been “discarded” by a pharmacy, hospital, or other health care provider when it decides to ship the potentially creditable material to a reverse distributor. Upon being “discarded,” those pharmaceuticals become solid waste, triggering management obligations under the Resource Conservation and Restoration Act (RCRA) for pharmaceuticals that are characteristically toxic, or that meet the definition of certain “listed” wastes, such as P and U listed acutely hazardous substances. In order to accommodate the unique market arrangements for pharmaceuticals, EPA’s final rule establishes an industry-specific set of requirements for prescription pharmaceuticals under RCRA. With regard to non-prescription pharmaceuticals, EPA took a different approach and will continue to allow health care providers to ship potentially reusable and reclaimable over-the-counter drugs and dietary supplements as recyclable materials outside the RCRA waste regime to reverse distributors, where the actual decision to reuse/reclaim or discard the material will be made.

The pharmaceutical waste management standards found in the new 40 CFR Part 266, Subpart P establish requirements for health care facilities (a term broadly defined to include hospitals, clinics, pharmacies, and long-term care facilities) as well as logistics providers known as “reverse distributors.” The final rule requires health care facilities that dispose of prescription pharmaceuticals to register with U.S. EPA, and to separate listed or characteristically hazardous (toxic, flammable, reactive, or corrosive) pharmaceuticals from unlisted, non-hazardous pharmaceuticals. Health care facilities will need to adopt training programs for staff to comply with the rule, and will need to dispose of hazardous pharmaceuticals within one year of their being determined to be a waste. The rule also creates an exemption from certain existing requirements for containers of medications that would be considered acutely hazardous when made a waste, such as Coumadin, so that facilities no longer have to tally the weight of Coumadin packaging and consider it acutely hazardous waste.

Notable changes from the proposal applicable to reverse distributors include (i) authorization to accumulate hazardous waste pharmaceuticals for up to 180 days, rather than 90 days as proposed, (ii) an exemption for managing materials subject to recall or a litigation hold and (iii) authorization to complete the initial sorting process within 30 days, rather than 21 days as proposed.

The final rule includes four other significant elements. It bans the practice of flushing hazardous waste medications down the toilet (“sewering”). The rule exempts Food and Drug Administration-approved nicotine replacement therapies, such as patches and gum, from hazardous waste disposal requirements. The rule also exempts from regulation medications collected during drug take-back programs and events, placing them within the Congressionally-created household hazardous waste exemption. Finally, the rule eliminates the dual regulation of hazardous waste pharmaceuticals under RCRA if they are also regulated by the DEA as controlled substances.

Why This Matters to the Health Care Industry. The final rule fundamentally changes U.S. EPA's long-held position on the point at which a pharmaceutical product is considered a solid waste under RCRA. That change will create significant regulatory uncertainty, and potential liability, for entities in the pharmaceutical distribution chain that suddenly find themselves evaluating compliance with the new rule. While Acting Administrator Wheeler signed the rule on December 11, the rule will not become effective until 6 months after it is published in the Federal Register. The rule may also be subject to petitions for reconsideration, or to challenge in the Court of Appeals for the D.C. Circuit.

Chemical Watch: NGOs demand release of REACH studies submitted as confidential under TSCA

<https://chemicalwatch.com/72953/ngos-demand-release-of-reach-studies-submitted-as-confidential-under-tsca>

By Kelly Franklin

12/20/2018

A coalition of NGOs has filed a public records request demanding the release of REACH studies submitted to the US EPA under TSCA that are being withheld as confidential.

And the NGO action could represent an early test to the EPA's interpretation of what types of information can be protected as CBI under the regulation.

At issue is the first of ten draft risk evaluations issued under the reformed TSCA, which focuses on pigment violet 29. Released to some controversy last month, the draft proposes to conclude that the substance does not pose an unreasonable risk to human health or the environment.

But the Environmental Defense Fund (EDF) is among groups protesting that the agency is protecting as confidential some of the studies it used to underpin its assessment. These include 20 PV29 studies submitted to Echa when the substance was registered under REACH. According to the EDF, health and safety data is ineligible for such protection.

On 4 December, environmental law nonprofit Earthjustice submitted a Freedom of Information Act (FOIA) request to obtain records related to the draft evaluation. These include not only the 20 REACH studies associated with the robust summaries referenced, but also air monitoring data used in exposure considerations, four additional studies and correspondence between the EPA and the industry.

NGOs the Natural Resources Defense Council (NRDC) and Safer Chemicals Healthy Families (SCHF) joined the EDF and Earthjustice in the request.

Confidentiality dispute

The review and determination of the FOIA request could have major implications for the CBI rules.

In the PV29 evaluation, the agency notes that it reviewed study reports that "contain information protected under statute" as CBI by TSCA. "A claim of business confidentiality by the data owners means that the EPA will not reproduce these full study reports in this risk evaluation," it states repeatedly.

But Richard Denison, lead senior scientist at EDF, told Chemical Watch that section 14 of TSCA does not apply to health and safety studies.

More specifically, section 14(a) says the EPA "shall not disclose information" meeting certain requirements for CBI, while section 14(b)(2) says that the first provision "does not prohibit the disclosure of" the studies.

According to Dr Denison: "Section 14(b)(2) essentially states that section 14(a)'s CBI protections do not apply to health and safety studies; section 14(b)(2) uses language designed to negate section 14(a)'s application to [them]."

He cited several instances in recent years where the EPA has indicated "precisely this in its policies and regulations". Indeed, the EPA website on CBI under TSCA says: "Health and safety studies, information from [them], and certain other information may not be protected."

But Herb Estreicher, a partner with Keller and Heckman, disagrees that they are ineligible for CBI protection.

Speaking to Chemical Watch, Dr Estreicher noted that section 14(b)(2) "allows EPA to disclose, but does not compel EPA to disclose, health and safety studies".

As a practical matter, he added, the EPA will not be given access to REACH full studies by registrants without agreeing not to disclose the reports, given the commercial value they hold.

"The NGOs do not have a fair complaint because a full and robust summary of these studies is published on the Echa website," added Dr Estreicher. The groups' efforts, rather, are "making it difficult for EPA to do valid assessments".

In an interview with Chemical Watch, David Wawer, the executive director of the Color Pigment Manufacturers Association (CPMA), agreed that the NGOs are acting as "obstructionists" to the successful implementation of TSCA with the consistent pressure they've been applying on the EPA.

"Our industry has tried to work collaboratively with the agency on this process, to make it successful" said Mr Wawer. "It's in everyone's best interests to try to implement the law successfully," he added.

The online FOIA portal has estimated a 7 January date for completing the review and response to the request. An agency's failure to respond or refusal to fulfil such a request is subject to legal review.